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MAR 16 2011

In re Application of	:	DECISION ON	
DICK et al	:		
Application No. 10/565,511	:		
PCT No.: PCT/US2004/007733	:		PCT LEGAL ADMINISTRATION
Int. Filing Date: 13 July 2004	:		
Priority Date: 23 July 2003	:	PETITION UNDER	
Attorney's Docket No.: 3081.151US01	:		
For: METHOD, DEVICE AND ...	:		
TREATMENT SYSTEM	:	37 CFR 1.182 and 1.137(b)	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed on 10 January 2011 correcting the international application number from PCT/US2004/007733 to PCT/EP2004/007733.

BACKGROUND

In a decision from this Office on 15 December 2010, the decision indicated that the petition to correct the international application number was filed after the applicants received a Notice of Abandonment. As a result, the application remained abandonment.

On 15 December 2010, petitioner filed a petition to revive the present application under 37 CFR 1.137(b).

DISCUSSION

37 CFR 1.182

Petitioner states that the PCT number was incorrectly entered as PCT/US2004/007733 in the transmittal letter rather than the correct number PCT/EP2006/007733 in the petition filed on 12 October 2010.

A review of the record of the international application shows that although petitioner indicates that the correct priority application number is as follows: PCT/EP2006/007733 (petition dated 10-12-2010), the correct number appears to be PCT/EP2004/007333. Petitioner needs to explain the inconsistency.

Therefore, the petition to accept the PCT number of PCT/EP2006/007733 for the instant application is dismissed.

Once the petition is granted the correct number will be reflected in the filing receipt.

DECISION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

37 CFR 1.137(b)

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has satisfied requirements (2), (3), and (4) under 37 CFR 1.137(b) but not requirement (1).

Petitioner has provided: (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

However, petitioner has not provided the proper reply because the correct PCT application number has not been provided.

Accordingly, the petition is not deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182 and 1.137(b)," and the petition must be paid.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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